

**MINUTES OF THE SELMA CITY COUNCIL
AUGUST 25, 2008
5:00 P.M.**

Call to Order

Invocation: Councilman Cecil Williamson, Pastor
Crescent Hill Presbyterian Church

Moment of Silence
Pledge of Allegiance

The Selma City Council met in a regular session in the Council Chambers of City Hall on Monday, August 25, 2008 at 5:00 p.m.

ROLL CALL

The following members were present during roll call: Council President George Evans and Council members Cecil Williamson, Jean T. Martin, Geraldine Allen, Johnnie Leashore, Bennie R. Crenshaw and Jannie M. Venter. Others present were Mayor James Perkins, Jr., City Clerk Lois Williams, City Attorney Jimmy Nunn, City Treasurer Cynthia Mitchell, and the Mayor's Executive Assistant Darlene Rudolph. Councilman Cain was absent during roll call but arrived at 5:05 p.m.

APPROVAL OF AGENDA

President Evans asked for the approval of the agenda items. A motion was made by Councilwoman Martin, and seconded by Councilwoman Allen, to approve the agenda as written. **The motion passed with a majority (show of hands) vote of the Council members present. Councilman Leashore cast a nay vote.**

APPROVAL OF MINUTES

After approval of the agenda, President Evans stated that the City Clerk asks that the minutes of the August 11, 2008 meeting be continued until the next meeting. A motion was made by Councilwoman Martin, and seconded by Councilman Leashore, to approve continuing the minutes of August 11, 2008. **The motion passed with a unanimous (show of hands) vote of the Council members present.**

CITIZENS' REQUESTS

Assistant District Attorney Jimmy Thomas
Re: Drug Task Force
President Evans and the Council formed a consensus in support of the efforts of the Drug Task Force.

Mr. Jesse Garza
Re: The Gathering Place RV Park and Dune-Buggy Track

Dr. Ellen Carter
Re: Possible Police Misconduct

Ms. Leslie Pettway
Re: Police Misconduct

MAYOR'S REPORT

A. No Report. Mayor Perkins stated he did not have a report; however, he asked Chief of Police William Riley to come forward and address the Council as it relates to the matter of Ms. Leslie Pettway. Chief Riley addressed the Council, in an effort to respond to the matter of Ms. Leslie Pettway, and stated that this matter is being looked at, and that an internal and administrative investigation is currently being done. Mayor Perkins stated he had spoken with Ms. Pettway as it relates to this matter, and she is aware of his position. Mayor Perkins further stated he would ask that the investigators be given the opportunity to do their jobs.

CITY ATTORNEY'S REPORT

A. Annexation - Ordinance #O114-07/08 and Ordinance #O115-07/08. Attorney Nunn asked Mr. Harold Speir to come forward and address the Council. Mr. Speir stated that there is a Physical Rehabilitation Group from Prattville who wants to build a 6,000 square foot Rehabilitation Center and they want to be included in the City limits, and that there is a Baptist Church, beside Central Christian Academy, that also wants to relocate on one of the lots. A motion was made by Councilman Cain, and seconded by Councilwoman Martin, to suspend the rules as it relates to Ordinance #O114-07/08. **A roll call vote was**

CITY ATTORNEY'S REPORT

taken and the motion passed with a unanimous vote of the Council. A motion was made by Councilman Cain, and seconded by Councilman Leashore, to suspend the rules as it relates to Ordinance #O115-07/08. A roll call vote was taken and the motion passed with a unanimous vote of the Council.

B. **Ordinance COS O15-01/02 – Truck Ordinance.** Attorney Nunn stated to Council that what they have before them is the City's Truck Ordinance, and that someone had requested that it be brought for Council discussion tonight. It was the consensus of the Council that they would ask the Selma Police Department to enforce the Ordinance, and begin writing citations.

C. **Attorney General – Opinion – Election Manager.** Attorney Nunn stated he had received back a response from the Attorney General as it relates to the question by the Selma City Council whether the governing body may appoint an individual to perform some or all of the statutory duties and requirements of the mayor, city clerk and/or governing body during the period for holding municipal elections. Attorney Nunn summarized the letter, and stated the Attorney General is of the opinion that the governing body of the City of Selma does not have the authority to appoint an individual to perform all of the duties related to conducting a municipal election for the city. Attorney Nunn further stated, the opinion states if the mayor is a candidate in the election, the City Council is authorized to appoint a person to perform only the duties of the mayor required under Section 11-46-36 of the Code of Alabama. Attorney Nunn stated the opinion also states if the city clerk is a candidate in the election, the City Council is authorized under Section 17-11-15 of the Code to appoint another person to perform the duties of the absentee election manager that are normally performed by the city clerk. Attorney Nunn stated the Attorney General also concluded that they are not aware of any provisions in the general laws that would authorize the probate judge to conduct the election for a municipality. Attorney Nunn further stated the Attorney General stated there is no general authority for a municipality to appoint a probate judge in his/her official capacity or to contract with a probate in his/her official capacity to perform specific election duties when a municipal officer or employee is disqualified from those duties. It was the consensus of the Council to go record and apologize to Ms. Lois Williams, City Clerk/Election Manager, and President Evans stated to Ms. Williams that on behalf of the Council he would like to apologize for all of the miscommunications given to this community and even about you, certainly we do apologize. Ms. Williams responded "thank you."

D. **Federal Poll Watchers.** Attorney Nunn stated his office did receive a call from the Justice Department and they did state that they had spoken with several contacts within the City, and that there was no indication that there will be race-based issues that they need to be concerned about on election day. Attorney Nunn also stated they did leave a number, 800/253-3931, and that he had spoken with a Ms. Veronica Jung, who indicated that this is the number to call in the event of a complaint.

E. **Lawsuits Pending.** Attorney Nunn stated that Councilwoman Allen had asked about the lawsuits pending against the City, and that he did review the ones pending in his office, along with those that the insurance company have pending, and there are about 5-6 lawsuits that the insurance company still have, and he has about 2 lawsuits in his office. Attorney Nunn further stated he thinks there are about 8-9 lawsuits pending against the City.

F. **Route for Delivery of Voting Supplies and Machines.** Attorney Nunn stated President Evans had made a request as to the route for the delivery of the voting machines and, that the suggested schedule for the delivery on Tuesday morning is that one of the routes for delivering the tops of the voting machines will be delivered by Two (2) Teams; Team One will start off with the first delivery, at Dallas County Courthouse, and Team Two will start off at Ford's Grocery, and proceed from there.

G. **Election Update.** Attorney Nunn gave an update as to the election, with regard to the Sixteen (16) City employees who would be delivering the voting supplies to each polling precinct, and being responsible for bringing the supplies back to City Hall when the Polls close. Attorney Nunn further stated he had asked the Owners and the Facility Managers to be there to open up the Polls on time. Attorney Nunn also stated that the keys to the voting machines are in the packets with the supplies.

H. **Election – Attorney General's Opinion – 2004-219.** Attorney Nunn stated he had also received a telephone call from President Evans as to the election being held on tomorrow. Attorney Nunn further stated there was a department head meeting which dealt with weather-related issues, to come up with a plan in the event of a tornado coming through and what happens. Attorney Nunn stated a request was made to see what would the City need to do in the event of a tornado. Attorney Nunn further stated there is an Attorney General's Opinion which he provided copies to the Council, which states given the circumstances a city may postpone and reschedule its election under Section 11-46-72 of the Code of Alabama, subject to pre-clearance by the Department of Justice. Attorney Nunn stated if there is a hurricane or a tornado coming through the City tomorrow, he would be on the telephone calling the Council early in the morning seeking whether or not it is the desire of the City Council to postpone the election, or whether it is the desire of the Council to proceed.

I. **Election - Provisional Ballots and Canvass.** Attorney Nunn stated Councilman Williamson had asked the question about who determines whether or not the provisional ballots will be counted. Attorney Nunn read excerpts from Section 17-10-2 of the Code of Alabama 1975, which states "...

CITY ATTORNEY'S REPORT

upon the closing of the polls, the sealed ballot box containing the provisional ballots shall be returned unopened to the sheriff, or in municipal elections to the municipal clerk, who shall keep it securely until such time as the provisional ballots are counted (canvassed). Attorney Nunn further read that all voter re-identification forms shall be placed in a sealed envelope addressed to the board of registrars and delivered by the sheriff, or in municipal elections by the municipal clerk, to the board of registrars no later than noon on the day following the election. Attorney Nunn read that the board of registrars shall verify by a certification attached to each provisional voter affirmation whether the provisional vote is entitled to be counted and the reason for or against counting the provisional ballot. Attorney Nunn also read that after determining that the provisional voter has had notice and an opportunity to be heard, the board of registrar shall verify by a certification attached to the challenge statement whether the provisional ballot is due to be counted and, if not, why it should not be counted, and that the board of registrar shall deliver the provisional voter affirmations and inspector challenge statements, with the certified findings of the board of registrars attached, to the judge of probate, or in municipal elections to the municipal clerk, no later than noon seven days after the election until which time such finding shall remain confidential. Attorney Nunn stated commencing at noon, Tuesday, seven days after the election, the canvassing board, or in municipal elections the municipal governing body, in the presence of watchers, shall tabulate provisional ballots which have been certified by the board of registrars as cast by registered and qualified voters of the voting places in which such ballots were cast. It was the consensus of the Council to meet at twelve o'clock noon on Tuesday, September 2nd, to canvass and certify the election. Attorney Nunn further stated anyone standing to contest the election may do so within 48 hours of the official canvass of the election results. Attorney Nunn also stated on September 8th, 6 days from there, would be the last day for a candidate to contest the results of the election. Attorney Nunn further stated if it is a run-off, then we would move back to the process of giving notice of the election and proceeding there from. Attorney Nunn stated in the event of a run-off election, that date would be October 7th, and the new Council would take office on November 7th.

C. Prohibitions for Poll Watchers and Poll Officials at the Precincts. Attorney Nunn stated he thinks the ground was marked 30-feet from the entrance door of the precinct, prohibiting the candidate's poll watcher and official from being closer than 30-feet from the building. Attorney Nunn further stated to Council that what they have before them is a copy of a sign that will be placed at each of the polls, which prohibits influencing and harassment of voters on election day, and also that no political advertisement would be allowed by poll watchers on election day. Attorney Nunn stated that poll watchers who are outside can wear buttons, t-shirts, and etc., but are prohibited from being beyond 30-feet from the polling precinct.

D. August Municipal Election, and Absentee Rule. Attorney Nunn stated he thinks the question was brought up at Thursday's Work Session by Councilman Williamson as to the absentee rule. Attorney Nunn further stated he and Ms. Lois Williams had spoken with the Office of the Secretary of State on Friday morning as it relates to absentee ballot applications that were received on Friday morning, and the question was asked can Ms. Williams go through the applications received on Friday morning, and still send out ballots. Attorney Nunn stated the Secretary of State answered and stated no, and stated that the deadline was Thursday, August 21st, and that the ballots would have had to be cast on Thursday, August 21st, or she would have had to receive the applications on Thursday, August 21st by 5:00 p.m. Attorney Nunn further stated Ms. Williams could come forward and address the Council with additional information. Ms. Williams came forward and stated to Council that as long as she receives the ballots by 12 o'clock noon on tomorrow, and the ballots are postmarked with today's date, they can be counted. Ms. Williams also stated the voter can come in and cast his or her own ballot on tomorrow, as long as it is done by 12 o'clock noon. Ms. Williams stated that all absentee ballot envelopes would be placed in the absentee ballot box, and would be turned over to the absentee officials tomorrow at 12 o'clock noon. Attorney Nunn stated the absentee officials would be here in the Council Chambers at 12 o'clock noon on tomorrow, and that they would then break the seal and begin the process of verifying the affidavits. Attorney Nunn further stated to Council if they would like to have their poll watchers there during that process, then they would need to be here at 12 o'clock noon. Ms. Williams stated the absentee officials will not actually run the ballots through the voting machine until 7:00 p.m., when the polls close.

E. Election – Testing of the Voting Machines. Attorney Nunn stated testing of the voting machines was held this afternoon at 3:00 p.m. Attorney Nunn further stated ES&S reported to him that there was only about two people who showed up to observe the test. Attorney Nunn stated that at 3:30 p.m. two police officers arrived with food and their sleeping bags to serve as security guards in the basement for the voting machines until ES&S comes tomorrow morning.

BUSINESS ITEMS:

I. 17 MISSING DATA PACKS

Councilman Leashore stated into the record that the 17 data packs came missing under the old administration in 2000. President Evans stated that they know they were found in 2004.

BUSINESS ITEMS:

II. LETTER FROM DR. KIRIT CHAPATWALA

President Evans stated this item is still pending.

III. NOISE ORDINANCE

This item is being continued.

IV. UNPAID GARBAGE FEES - UPDATE

Attorney Nunn gave an update on this item, and stated that he had spoken with Ms. Cynthia Mitchell as it relates to unpaid garbage fees. Attorney Nunn further stated that Ms. Cynthia Mitchell indicated that she was going to meet with Mr. Roosevelt Goldsby, and would follow-up with a report back to the Council on the unpaid garbage fees.

V. GOOD SAMARITAN LEASE/SUB-LEASE AGREEMENT, AND INCOME/EXPENSE REPORT

President Evans asked Attorney Nunn about this item, and he stated he had spoken with Ms. Bridgett Mills as it relates to this matter, and she indicated she would follow-up with a report to the Council tonight.

VI. MISSING MONEY FROM THE POLICE DEPARTMENT

This item is continued.

VII. UPDATE - BUSH HOG, INC. - CLOSING OF STREETS AND PROPERTY ACQUISITION

This item is continued.

VIII. TECHNOLOGY FOR THE MAGISTRATE'S OFFICE

This item is continued.

IX. COUNCIL TRAVEL

President Evans stated Ms. Diana Johnson is currently working on this item, and that she does have a rough draft. Councilman Leashore stated to President Evans that he would like the record to reflect that it is the choice of Councilman Williamson to not travel. This item is still pending.

X. SPEED BREAKERS POLICY

President Evans stated they are still trying to get some speed breakers put up on St. Ann Street. President Evans further stated that they are not going to take any action on it tonight, but stated to Attorney Nunn he would appreciate him forwarding a copy of the Speed Breakers Policy to Ms. Diana Johnson, so that she can provide a copy to each Council member.

XI. UPCOMING CITY GOVERNMENT MEETINGS, COMMITTEE MEETINGS AND CONFERENCES

There are none to report.

STANDING COMMITTEE REPORTS

RECREATION COMMITTEE – Councilman Leashore, Chairperson

No Report.

ADMINISTRATIVE COMMITTEE – Councilman Dr. Cecil Williamson, Chairperson

No Report.

PUBLIC SAFETY COMMITTEE – Councilwoman Dr. Geraldine Allen, Chairperson

No Report.

COMMUNITY DEVELOPMENT COMMITTEE – Councilwoman Bennie Ruth Crenshaw, Chairperson

No Report.

STANDING COMMITTEE REPORTS

PUBLIC WORKS COMMITTEE – Councilwoman Venter, Chairperson

No Report.

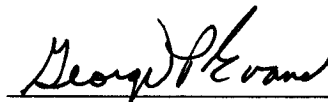
DISCRETIONARY FUNDS COMMITTEE – President Evans, Chairperson

No report.

CLOSING REMARKS BY EACH COUNCIL MEMBER.

ADJOURNMENT

There being no further business to come before the Council, a motion was made by Councilman Leashore, and seconded by Councilwoman Allen, to adjourn, and by unanimous consent of the Council, this meeting adjourned at 7:05 p.m.



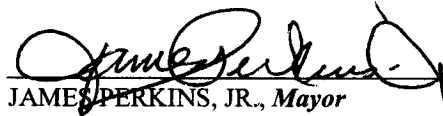
GEORGE P. EVANS, *Council President*

ATTEST:



LOIS WILLIAMS, *City Clerk*

APPROVED:



JAMES PERKINS, JR., *Mayor*